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NEW CONSTITUTION

There will be a mass meeting to debate the proposed constitution for the Law Students Union today at 3:30 p.m. at a room to be announced. The election to accept or reject the constitution will be held on Thursday, November 6. The polling place will be in front of Room 100 Hutchins Hall.

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EDITORIAL "Support the BLSA Demands"

There are 37 black students at the University of Michigan Law School. The Black Law Students Alliance finds this fact intolerable, so should every member of the law school community. BLSA has proposed three demands to remedy this situation:

1. The admission of 100 black students in next year's first year class;
2. The hiring of five black faculty members;
3. The establishment of a permanent Special Admissions Committee to recruit and consider black applicants.

BLSA has stated that the numbers involved in the demands are goals and not quotas. No doubt, the use of such numbers makes people uncomfortable; visions of reverse discrimination abound. But, how can it be reverse discrimination when the white society and the black society are so far apart! Such discrimination implies an equality of position to begin with. The faculty has already recognized this by instituting a special black admissions policy in 1966 and somewhat extending it last year. But, the results have not been what one hoped. The setting of a specific (possibly negotiable) number is simply a way of turning the good faith of the faculty into substance.

The faculty is worried about the academic qualifications of the black students who would be taken under this program, the standard of the law school, and the psychological effects on black students who might have difficulty passing courses at the law school. All of these are problems, but they should not be used as excuses to reject the demands.

Already, the Special Admissions Committee is using "soft data" when considering black students who do not have the grades and LSAT score necessary for admission. It cannot be strongly enough stated that the student who goes to a ghetto high school and then on to college with only passable grades and does badly on the LSAT may really be showing more ability than the middle class white student who breezes into law school.

The law school's standards are high. Michigan is considered one of the best law schools in the country. Yet, in an informal poll of transfer students, the prevailing sentiment is that the work at Michigan is not more difficult than the work at their previous law schools, which do not have the prestige of Michigan.

Why, then, should there be any worry over these standards?

It may be difficult for black students to come here and possibly not do well. Some well-intentioned people have made this argument. But, it is past the time when white people should be deciding that a certain action will be psychologically harmful to the black man. There is no reason to doubt that members of BLSA and the Special Admissions Committee will explain this problem to black applicants. However, the choice should be the individual applicant's. A similar argument is that blacks would be better off at urban law schools which are supposedly "easier" and have courses more suited to poverty law. Laying aside what this says about the curriculum at Michigan, the school again should not be making this choice for black applicants.

More important than these arguments, concerning the relation of black students and the law school, is the fact that the country needs black lawyers. Those people who claim that minority groups should use the legal processes for their grievances, and that includes all the faculty, one suspects, better make sure that those groups have the legal help necessary. This certainly is not the case at the moment.

There have been worries expressed that those law students who come into the school with low academic credentials will not be capable lawyers. Yale Law School was the first major law school to have a special admissions policy. In a letter to a Yale alumnus who had raised this question, Dean Louis Pollak discussed the fact that many black students admitted under special standard did not do well at the law school. He then went on to say, "But, in my judgment, the important point is that so many black alumni have, in entering upon the possession, speedily demonstrated professional accomplishment of a high order." It is time to understand that one comes to a law school not to get good grades or make law review, but to become an accomplished lawyer.

Extra financing will be necessary to implement the BLSA demand. Both the student body and the faculty should consider new ways of scholarship financing. Firms who recruit here should pay for that privilege with the money going for financial aid. Professors, who do consulting work, should consider asking the firms they work for to contribute to the aid program. A similar program at the University of California Law School produced money for about 40 black and chicano law students.

The BLSA has accused the law school of being racist. Some of the faculty have taken this as a personal attack. It is not. Almost every institution in this country is racist because the whole society is racist. By accepting the BLSA demands, this law school will begin to make a dent in such racism.

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ONE MAN'S OPINION LAW SCHOOL -- THE HIGHER PRIORITIES

Michigan Law School is a cop out.

Studying law here neatly avoids raising any problems of the relationship between the law and social conditions.

The current struggle to get more black law students admitted is a prime example of this. The reason (excuse?) used by the faculty and administration for not admitting more black law students is that they couldn't hack it here. They couldn't be expected to get through the current law school program with passing grades.

This may well be true, but even if it is, it is not a valid reason for not admitting more black students.

Why?

Because the law school curriculum and teaching methods have little relevance to what the world is like and of how the legal and social system work. This is readily apparent to anyone who has spent any time at Michigan Law School.

Any relationship between what occurs in the average law school class (think about T & E, Civil Procedure, Torts, etc.) and what would happen in a real practice situation is purely coincidental.

What is taught here is Socratic sophistry. Sometimes known as "reasoning," "legal thinking," etc.

It has little relevance to the "average" practice situation, even less relevance to that of a black attorney in Detroit, Harlem or Jackson, Miss., and practically no relevance to the social system and social change.

Admitting a black student on the basis that he can successfully complete this curriculum is a farce. Whether he can get through the Michigan Law School curriculum is going to make damn little difference to his client in the ghetto.

This law school is gearing itself, if to any type of practice, to a lily white upper middle class corporate practice. Even to that type of practice the current curriculum and methods are of dubious relevance.

The Langdellian type of instruction is obsolete from a social and from an educational point of view. It teaches distinction-making and only incidentally a little law.

To the black client in need of legal services, whether or not his lawyer could make distinctions that would satisfy a U of M law school professor is of relatively little consequence. His first problem is to find a lawyer. Any lawyer. Maybe it'll be easier for him to find a black lawyer, to relate to a black lawyer, to trust a black lawyer. But above all he needs a lawyer. He doesn't care if he was on the Law Review at Michigan or if he passed the lily-white curriculum with flying colors. He needs someone with a law degree, and if he'd prefer a black attorney it is incumbent upon this school to give him a black attorney.

The "standards" of the law school are standing in the way of black students. America desperately needs black lawyers. Are the "standards" of this law school worth preserving to the extent that they deny America -- and especially the long-suffering black American -- the attorneys it needs?

The question resolves itself to this: Are the "standards" more important than the need for lawyers?

THE STANDARD IS SEEMINGLY IRRELEVANT. It could be changed and more black students could be admitted, and at the same time the curriculum could be made more relevant.

It could be made to serve the practice situation. It could be molded to help the black (and white) attorney serve his client. It could be made to reflect the relationships between the law and society.

The law school curriculum could show how the law helps to keep the black man in the ghetto and how it can help to get him out or to improve his situation. It can show how the law has subtly affected men's philosophy and psychology so as to make the white man scared, mad, and guilty because of the plight of the black man. It can show how in a civil insurrection (riot?) the law can work for both the police and those revolting.

The curriculum could show many practical things that could help any lawyer, yet are left out in the current curriculum.

1. How many civil procedure courses show the student how to draft a complaint or how a summons can be worded? Or even what a complaint or summons looks like.
2. How a criminal lawyer can best protect the rights of his clients not from a lofty constitutional viewpoint, but in a nitty-gritty police-attorney encounter. How to negotiate a plea. How to defend (or prosecute) a traffic violation or a minor-in-possession.
3. How to appeal to the particular and peculiar eccentricities of a given judge to get the best possible outcome for your client. What elements to include in any argument (policy, precedent, weight of authority, etc.)

Did your civil pro. course include 1? Did your criminal law course include 2? Did any course you took or teach include 3? Did your T & E section ever look at a will in its entirety?

Curriculum and "standards" changes are needed now. To get more black students into law school and resultantly more black lawyers in the country. To make the education of these lawyers and all lawyers relevant to practice and to society today. To make the law school an educationally modern, efficient and effective institution of higher learning.

Michael D. McGuire

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LETTERS TO THE EDITOR

To the Editor:

The October 24 issue of RG contained a letter from Mr. Fabre which launched a personal attack on Dean Matthew McCauley. Last year, I served on the Special Admissions Committee (the Committee which administered the school's program for admission of Black students under relaxed standards), and consequently I worked closely with Dean McCauley in connection with his efforts to increase the number of the school's Black students. In view of my contact with the work of Dean McCauley, I feel morally compelled to respond to Mr. Fabre's verbal assault.

Five years ago, the Law School resolved to recruit Black students and to apply lower standards of admission for those students. The determination of the extent to which the Law School would bend its admission standards was made by the faculty several years before Dean McCauley arrived; in making this determination, the faculty tempered its collective desire to increase the number of Blacks in the legal profession with the cold reality that the standards of achievement at this law school and the quality of its student body restrict the degree to which the standards for admission can be relaxed. To the extent that there is dissatisfaction with the school's policies on this matter, the responsibility rests with the faculty, not with Dean McCauley.

Last year, the Special Admissions Committee consisted of: two students (one of whom was an officer of the BLSA), Dean McCauley, Professors Harris, Allen, Sobol and myself. This Committee administered the school's program for recruitment and admission of Black students and implemented the minimum standards of admission established by the faculty. Of course, Dean McCauley was an active and significant member of that Committee, and he was its chief administrator, but the ultimate decisions were made by the entire Committee of seven persons. Dean McCauley devoted countless hours to the work of this Committee, supervised its administrative work, and organized and participated in recruitment trips to other schools. In my opinion, Dean McCauley performed his functions in an exemplary manner, and this school is extremely fortunate to have his services.

Dean McCauley's actions and words on the Committee have evidenced a sincere concern and sympathy for the aims of the Black recruitment program. Rather than merely seeking to swell the statistical number of Black students admitted to the Law School, Dean McCauley and the Committee sought to recruit and admit those students who could successfully complete their studies at Michigan, and despite obstacles (such as the draft and accelerated recruitment by other schools), he succeeded in increasing the school's enrollment of Black freshman students by more than 50% over the previous year, albeit the absolute number of enrollees was disappointing to Dean McCauley as it was to the BLSA. It is ironic that after having been an articulate and forceful advocate of the interests of the Black students and after having liberally allocated scholarship funds among the Black students, Dean McCauley has been smeared by innuendo which characterized him as a racist and questioned his professional competence.

Mr. Fabre chides Dean McCauley for stating that no promises were given last year as to the number of Black students who would be admitted this year because Dean McCauley was not present at the meeting in question. On the other hand, Mr. Fabre's "recollection moves in the direction of saying such a number was mentioned." I have no qualms about asserting confidently that no such promise was made, and I do not consider myself disqualified from making that assertion merely because I, too, was not invited to that meeting. Human knowledge does not rest exclusively on direct personal observation; indeed, circumstantial evidence is frequently more reliable than personal observations.

First, it is highly unlikely that a promise of such significance would be made without first submitting the question to the faculty, and the faculty never approved the adoption of a quota system. Moreover, the two faculty members who attended the meeting in question have publicly denied that any promise of a minimum quota

was made. In addition, within one to two weeks after the meeting in question, the BLSA met with the faculty (and I was present at that meeting) and, among other items, they demanded that the school admit a specific number of Black students to be determined according to a formula based on the percentage of Blacks in the population of the State of Michigan. These figures were presented as a demand, not as a recitation of an agreement already concluded. The faculty immediately rejected this demand and some colloquy ensued. I am convinced that the demand would not have been presented in that form if such promises had been made at the earlier meeting; and in any event, no one who was present at the second meeting could have believed that such a promise had been given. Finally, the BLSA officer who served on the Special Admissions Committee last year was present at that first meeting, and in the many conferences held by the Committee during the year, he never once mentioned such a promise; it is inconceivable that he would have failed to do so if he believed that such a promise had been made.

It is regrettable that Mr. Fabre was offended by the characterization of Black students as being of "disadvantaged backgrounds" or "culturally handicapped." However, it is grossly unfair to imply that Dean McCauley originated those characterizations or borrowed them from the KKK. These or similar terms have been employed by many responsible persons including last year's officers of the BLSA who grounded their demands for changes in the school's grading structure on the argument that many of the Black students were disadvantaged, through no fault of their own, because of years of oppression. Of course, these are emotive terms, and it is understandable that the emotional reaction to such terms may change; but if such changes are to be so sudden and are to provoke such vitriolic responses, then we are in danger of entering an Orwellian world in which significant commentary must first be cleared with an appropriate censor of determination of the approved terminology of the day.

Douglas A. Kahn

(Ed. Note: Mr. Fabre's letter, which is referred to in the above letter, is now the official policy of the Black Law Students Alliance.)

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SOME THOUGHTS ON THE PROPOSED CONSTITUTION

I believe that the proposed constitution for the students of this law school ought to be approved in next Thursday's special election. I support the final draft of the proposed constitution, however, I would like to make several comments regarding this proposal and law school student government.

I must admit that I have had serious doubts recently as to whether or not we ought to even bother with having a constitution or a law school student government. It strikes me as being somewhat absurd that we as students ought to have our "OWN" organization to represent us with respect to the affairs of this law school; to represent us to the body that has the power to govern the affairs of this law school, i.e. to represent us to OUR faculty. We ought not to have our "OWN" organization, and OUR faculty ought not to have its own organization, rather the students and their faculty

ought to be part of the same governing body to run the affairs of this law school. Everyone in this law school, OUR faculty, OUR administration, and WE ourselves, ought to recognize that we are all part of the same community of interest; that problems of this law school are problems of us all.

Perhaps by ratifying this proposed constitution we will only serve to "institutionalize" the gulf that exists between OUR faculty and ourselves so as to further delay the creation of a common forum in which WE and OUR faculty can together govern the affairs of this law school. But on the other hand we as students have to first recognize that we need a means to attain this goal of a common law school forum. This constitutional proposal will give us such a means. The Board of Directors and the Lawyers Club are student organizations created by a grant of authority from someone other than students. These organizations were never designed as a vehicle for students to significantly take part in the affairs of this law school. We cannot expect anyone to recognize the community of interest that exists among all the members of this law school unless we first constitute ourselves into something other than a glorified dance committee created by the good offices of someone other than ourselves.

The several important things that this proposal does is that it allows us to constitute ourselves into a law students organization and it provides a means to get representation from the membership of the first year class as it is important that all three classes be represented in order to have a truly legitimate representative body. There is one particular proposal in this constitution that has caused some concern to members of this law school which I feel we ought to fully understand before we act on it. This is proposal Nine entitled DISCIPLINARY ACTION and which does away with student authority to regulate non-academic behavior. Rather it recognizes the authority of civil government as being responsible for such conduct. This is a significant provision as by it we refuse to impose sanctions for non-academic behavior. So in the event of Columbia or San Francisco State type trouble we only have the alternatives of calling in the police, doing nothing, or trying to talk over and work out any problem that comes up.

This proposal is in direct opposition to the desires of the law students of two years ago or even last year. By way of background I should point out that there presently exists a Law School Judiciary Council composed of three persons appointed by the Dean - a student, a faculty member, and another member acceptable to both the students and faculty. This Judiciary Council is to handle in an adversary situation all cases of non-academic behavior in the Law School. Sanctions are to be imposed for intentional conduct that violates federal, state, or local law and that substantially damages University property, interferes with the free movement of persons, or disrupts University functions by depriving others of needed quiet, light, heat, or other physical condition of work. Matters to be considered are that some other tribunal has already acted on the conduct or that the conduct was without malice and/or that it was motivated by "considerations of conscience." It is well to note that this Judiciary Council was set up as the result of discussions held by a student-faculty committee. The primary motive of the students then was to ensure that the students had a voice in matters concerning the disciplining of law students for non-academic behavior within the law school community. This Judiciary Council

was finally approved by the Board of Directors and the Faculty last fall. The impetus for final approval was the demand of the regents that every school within the University establish regulations to govern non-academic behavior in response to the situation that had occurred at Columbia.

By denying the authority of anyone but the civil authorities to control non-academic behavior we are in a sense placing ourselves in direct opposition to the demands of the Regents and must face the possibility that the Regents may establish such regulations for us. However, I believe that our proposal is a good one. I believe that if anyone is acting unlawfully that his conduct can and should be regulated by the civil authorities which we are all subject to. If other citizens are subject to police action and the courts, I believe that we ought to be also and that we ought not to be granted immunity because of our association with the University. If we are going to learn the law and practice the law, then we ought to be subject to the law.

In the final analysis this proposed constitution is not perfect nor does it pretend to be, but it is a step in the right direction and it merits your approval. All I ask is that you read this constitution and that you vote -- one way or the other -- and that you realize what you are voting for.

Robert O. Wefald

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FACULTY APPOINTMENTS TO COMMITTEES

Academic Standards and Incentives: Cooperrider (Ch.), Israel, Kauper, Lempert

Faculty-Student Liaison and Information: Reed (Ch.), Gray, Lempert, Smith

Special Student Admissions: Julin (Ch.), L. Allen, Chambers, D. Kahn Ex officio: McCauley

Administrative: Julin, Kennedy, Proffitt, Wellman

Admissions Policy: Gray (Ch.), Kahn, Knauss, White Ex Officio: McCauley

Curriculum: Sandalow (Ch.), Cooperrider, Jackson, Regan

Personnel: St. Antoine (Ch.), Cramton, Miller, Pierce, Siegel, Wellman

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JUSTICE DEPARTMENT FORUM

About thirty-five students showed up Monday, October 27, to hear former Justice Department aid Stephen Pollack discuss the changes in Justice Department policy under the Nixon Administration. Mr. Pollack was fairly optimistic about the Department. He mentioned that such areas as the tax, anti-trust, and claims division are not involved in politics and offer young lawyers an excellent way to begin his career.

He also stated that the Civil Rights Division will probably end up fighting for faster integration even though it is now on the side of the Southern state. Also, this division offers more opportunities for someone interested in civil rights than any firm or other branch of government.

A demonstration against the Justice Department recruiters did not take place nor did they participate in the forum. Student interest in the event was low considering the number who attended the forum.

There is, however, some interest in firms and agencies which recruit here. Women are especially upset about the fact that firms which do not hire women are allowed to recruit at the law school, and other students are questioning firms who always side against the "public interest."

Herman Resort

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BOARD ACCEPTS RESIGNATIONS

The Board of Directors recently accepted the resignations of Bruce Driver and Frank Eamon. The Board also endorsed the bookstore proposal which was later accepted by the Regents. The board's Executive Secretary Bob Smith was on the committee which negotiated the compromise plan as was Professor Knauss.

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CASE OF THE WEEK

Tami v. Pikowitz, 48 A.2d 221 (1936). Not so good, but a faculty member recommended it.

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POVERTY AMENDMENT

On October 14 the Senate passed an amendment to the O.E.O. bill proposed by Senator George Murphy to the effect that the governor of each state would have an absolute veto over the funding of any legal service program in his state. Although another amendment gives the President the power to override this veto, the Murphy Amendment gives governors the power to stop necessary legal services from reaching the poor.

Many organizations, including the National Legal Aid and Defender Association, oppose this action. Those who wish to express their disapproval, both students and faculty, should sign the petition on the second floor legal aid bulletin board.

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THE CASE FOR T & E

In response to a recent Res Gestae article, there has been much discussion of the validity of the Trusts and Estates requirement. The editors would like to have a forum on the merits of this requirement. We would like to present many faculty and student views to

give a broad spectrum of opinion. Please put your responses in the Res Gestae mailbox on the Third Floor of Hutchins Hall.

Res Gestae Editors

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ROBBIN'S EGG

On the way up in the elevator, Ambitious A Student carefully brushed the dandruff off his three piece suit, he shined his shoes on the back of his trousers, and, then, he performed his first radical act; he picked his nose and deposited a little symbol of affection on the Down button. Ambitious A was ready now. He waded through the thick carpeting and paused for a moment to peruse Who's Who which was the only book in the outer office.

A door opened.

"Hello, I'm Robbin Flaming, and I'm very important as you no doubt know, having just looked me up in Who's Who. When you're as important as I am you don't need to be subtle; you can afford to be straight-forward and honest."

"Hi, man. I'm Ambitious A Student, I've just performed my first radical act, and, aside from that, I think I've been treated unJUSTly so I've come to you, the last resort and deus ex machina."

Ambitious A Student entered the office and placed his attache case (NB: heh, heh) at his feet.

Mr. Flaming listened to Student's story. He exuded compassion. He sympathized. He empathized, and one might suspect he could even shed a tear if that is what the occasion called for. He believed student. He promised help.

"But could you be more specific, President Flaming. If I were to have half the class sign a statement saying they believed the Psychiatry and Law exam was invalid ... "

Eager to assist, Flaming interrupted. "Then I would say Dean Dean should see that something is done."

"Thank you, Robben Flaming. You are a deus ex machina, and I know I can believe in you. You are not like Dean Dean who, would you believe the presumptuousness, said to me: YOU DON'T BELONG IN LAW SCHOOL."

"I do find it difficult to believe a man like Dean Dean would say something like that."

"He did, President Flaming. I tape recorded my talk with him just like I've tape recorded this interview," said Ambitious A, pointing to his (NB: heh, heh) attache case. "I know I can believe in you, President Flaming."

Flaming flamed. "You did what. That's indiscreet. That's disrespectful. If that tape recorder is still running, let it record this: I don't deal with people who show no respect for me. Get out of my office!"

Ambitious A Student thanked President Flaming. Now that his odyssey was ended, he'd learned a great deal about many things. He performed his second radical act upon the UP button, strode outside, raised his clenched fist into the air and shouted:

"ALL POWER TO THE PEOPLE!"

David A. Goldstein

See next week's Res Gestae for a satirical explanation:
The Allegorical, the Apocalypitical, and the Absurd.

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MARCH ON WASHINGTON

There will be a meeting Monday of people interested in organizing Law student participation in the November 15 March on Washington. Based upon the tremendous response of the student body to the October 15 strike, we expect that there will be enough interest to enable law students from U of M to march in the demonstration as a specific entity. Everyone who was an organizer for the October 15 strike should make a special effort to attend the meeting Monday. The meeting will be held in Room 132 Hutchins Hall at 3:30.

ACT TO END THE WAR!

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SEEK BOOKSTORE MANAGER

The Board of Directors is seeking a person or group of persons to run the student Used Bookstore Exchange. In the past, the financial remuneration has been on a 50%-50% basis. However, the contract for the next year, and subsequently, is presently being rewritten.

Persons interested in the position should: call Ed Fabre at 662-3992 or place a note to this effect in Ed Fabre's mailbox in the Lawyers Club.

The deadline for applications is November 15.

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FOOTBALL POLL SPECIAL -- CLASH OF GIANTS

In response to overwhelming student sentiment to oust your post-prandial prognostician, this week's selections have been made by Professors Arthur Miller and Yale Kamisar, tight end and wolf man on the Michigan Law eleven. The crucial contest will go down to the Montana and Dartmouth games as legal minds worked the same way. Professor Kamisar comments: "Look for the Gophers to snap their longest losing streak in modern times and beat their most hated rival, Iowa. Watch Missouri bring back to earth Kansas State, a stunning upset winner over Oklahoma last week." Miller said: "Ivy league football is for the birds."

Desiring to end his popular picks with a flourish your solicitous seer bowed out last week with an 18 and 2 record, in a week of heavy

upsets, closing out with an amazing 80% correctness, and therefore last week's winner was Roger Tilles. Match your wits with your Profs.

(M = Miller, K = Kamisar)

Air Force [M, K]

Brown

California

Colorado [M, K]

Columbia

Dartmouth [M]

Florida [M, K]

Georgia

Harvard [M, K]

Illinois

Adelbart [M, K]

Indiana

Iowa

Kansas State

Mississippi

Montana (Whites) [M]

UCLA [M, K]

Miami (O) [M, K]

Wisconsin

Army

Princeton [M, K]

USC [M, K]

Nebraska

Cornell [M, K]

Yale [K]

Auburn

Tennessee [M, K]

Penn

Purdue [M, K]

Theil

Michigan State [M, K]

Minnesota [M, K]

Missouri [M, K]

LSU [M, K]

Montana St. [K]

Washington

Toledo

Michigan [M, K]

Tie Breaker - Total points Wisconsin - U of M

(M - 48, K - 49)

All entries should be submitted to the box at the Lawyers Club desk before 12:00 noon Saturday. Only one entry per person.

David Bristol '77

Editor: Neal Bush

Associate Editors: Don Tucker, Roger Tilles, Stephen Stitt.

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